

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROQUE T. ARANDA,
TDCJ-ID NO.805045,
Plaintiff,

v.

RAY GOODRUM, *et al.*,
Defendants.

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CIVIL ACTION NO. H-05-1572

ORDER ON DISMISSAL

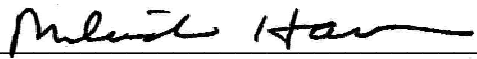
Plaintiff, a state inmate incarcerated in the Texas Department of Criminal Justice—Criminal Institutional Division, has filed a civil rights complaint (Docket Entry No.1) and an application to proceed *in forma pauperis*. (Docket Entry No.2). A prisoner, however, cannot file a civil action *in forma pauperis* in federal court if, on three or more prior occasions, while incarcerated, he brought an action that was dismissed for being frivolous, malicious, or failing to state a claim upon which relief may be granted. 28 U.S.C. § 1915(g). The only exception to revocation of an inmate's privilege to proceed *in forma pauperis* is if he is in immediate danger of serious physical harm. *Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998). Plaintiff's complaint does not indicate that he is any danger.

Plaintiff's litigation history reveals that he falls within the provisions of section 1915(g). Plaintiff has filed numerous lawsuits in federal courts while incarcerated in prison or a detention facility. At least three have been dismissed as either frivolous, malicious, or for failure to state a claim upon which relief may be granted and many others dismissed as barred under 28 U.S.C. § 1915(g). *See Aranda v. Ms. Popps*, Civil Action No.H-01-0813 (S.D. Tex. Mar. 26, 2001).

Accordingly, it is ORDERED that this complaint is DISMISSED under 28 U.S.C. § 1915(g) without prejudice to plaintiff refiling after payment of the entire \$250.00 filing fee and other monetary sanctions. All pending motions are further DENIED. (Docket Entry No.2).

The Clerk will provide a copy of this Order to all parties, to the TDCJ - Office of the General Counsel, P.O. Box 13084, Capitol Station, Austin, TX 78711, Fax 512-936-2159; and to the Clerk of the United States District Court for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas, 75702, Attention: Betty Parker.

SIGNED at Houston, Texas, this 7th day of June, 2005.



MELINDA HARMON
UNITED STATES DISTRICT JUDGE